Courts and the Public Interest:

A Call for Sustainable Resources

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Abstract

The court system is part of a judiciary that serves as a pillar along with two other separate but equally important pillars, represented by the executive and legislative branches of government, upon which the democratic framework of the United States rests. Using this metaphor, the notion of the public interest is examined and tied to judicial functions and the role that courts serve in a society. While the authority for courts can be found in federal and state constitutions and legal doctrine, the importance of funding court functions is often overlooked. The Constitutional claim for sustainable resources along with other widely recognized standards are explained with a further emphasis on three court funding models characterized as local funding systems, state-funded systems, and fee-based funding systems. Research regarding gubernatorial priorities as expressed in 2002 State of the State Addresses and the relationship of those priorities to state and local courts is considered. Perhaps not surprisingly, the results of this review of governors' addresses seem to indicate that the role of courts is rarely considered when gubernatorial policies are expressed. Finally, recommendations are made in an effort to improve opportunities for additional resources including some innovative approaches.

Introduction

Courts play a crucial role in all societies. Not only do courts function in consort with and, at times, as a counterbalance to other governmental actors, but courts also reinforce social order, individual autonomy and help to maintain an underlying structure that is conducive to basic economic activity. Courts apply the law to individual cases, thereby holding adjudicated offenders accountable in criminal matters while ensuring that individual rights are preserved in the process. Courts also uphold and protect individual property rights in civil matters by resolving disputes involving guarantees, warranties, trademarks, and contractual arrangements. A functional court system is what separates developed nations from emerging nations, encourages democratization, and lessens or eliminates the powers of despots. As one noted economist writes, "In developed countries, effective judicial systems include well-specified bodies of law and agents such as lawyers, arbitrators, and mediators, and one has some confidence that the merits of a case rather than private payoffs will influence outcomes. In contrast, enforcement in

Third World economies is uncertain not only because of the ambiguity of legal doctrine, but because of uncertainty with respect to behavior of the agent" (North, 1990, p. 59).

Given that court activities underlie the basic fabric of a society, this paper will seek to affirm the important role of courts within a democratic framework (the United States) and examine the notion that courts operate in the public interest. Building upon the concept of public interest, sometimes referred to as the "common good," the argument will be made for funding of court activities with an emphasis on differentiated funding models. Finally, recommendations will be offered in an effort to help ensure adequate resources for courts that preserve the integrity of the judicial process. It is important to note that this analysis will primarily focus on operations and funding mechanisms at the state and local levels, as it could be argued that federal courts in the United States have more consistent and sustained methods of resource acquisition, and therefore, such an examination is less necessary.

The Public Interest

In a democratic society, government fulfills many obligations to its citizenry and operates in a manner that is ever cognizant of the public interest.

Let's begin by what is meant by the public interest. Essentially, public interest refers to the end results that stem from governmental actions. It is associated with those things that a government ought to do as part of its routine activities. The public interest is the basic purpose that motivates a democratic government and those employed within that government to seek the common good for the citizenry. This concept is important to all branches of government. Certainly, judicial decisions should not be predicated on the basis of perceived public opinion, however, an awareness of the judiciary's role in

governance cannot be overlooked. Courts make rulings based on law and in many instances reinforce the importance of order within a society. Thus, by virtue of function, courts provide a common good for the citizenry. As such, a court's activities are more process oriented with the process often being nearly as important as the results. Governments should attempt to seek the greatest good for the greatest number (Mill, 1987, pp. 272-338) while considering the needs of the few. In a court system, such as there is in the United States, this is ensured by preserving and protecting individual rights while engaging in necessary constitutional activities that are at the core of democratic principles.

Certain democratic principles or citizen concerns may be deemed to be in the public interest when there is significant commonality in beliefs among the general populace. An author notes, "Perfect agreement within the community is not always possible, but an interest may be said to have become public when it is shared so widely as to be substantially universal" (Schattschneider, 1975, p. 24).

One Irish scholar sums up the concept of public interest quite well. He writes that citizens want a system in which, "…they have confidence because they know that, by and large, it is honest, it is fair, it is responsive to them, and inclusive of them, it is effective in that it produces results or outcomes which increase the welfare of the community as a whole, economically, socially and environmentally" (Murphy, 1998, p. 23).

Differing Views Among Scholars Regarding the Public Interest

Like many concepts or theories that address the relationship of legislative, executive and judicial functions, there are differing opinions on the notion of public interest. While these opinions vary widely, there are those scholars who view the public

interest as being absolutely essential to governance. Author Walter Lippman, writes, "…the public interest may be presumed to be what men would choose if they saw clearly, thought rationally, and acted disinterestedly, and benevolently" (Lippman, 1955, p. 42).

In the other camp, are those who view the public interest as having much less of an impact on governmental purposes. For example, one political scientist argues that if the public interest is a legitimate concept it should be measurable. Glendon A. Schubert, Jr., after researching the subject, wrote, "…the public interest neither adds to nor detracts from the theory and methods presently available for analyzing political behavior" (Schubert, Jr., 1960, p. 223). He sees no real impact of the public interest on governmental functions. Another author has written extensively about what he calls the "politics of interest" which he describes as, "…the understanding of politics in terms of autonomous and isolated individuals and their interests" (Cochran, 1974, p. 328). He argues that the dominance of politics of interest makes it practically impossible for one to consider public interest or common good because an individual's or group's special interests overshadow, and thus overwhelm, public interest. This, he theorizes, occurs if the individual or group has special influence or more direct access to political decision-makers. Such an idea may have greater veracity in a legislative or executive context, if an individual or group has special influence with or access to a politician or elected executive. However, this type of occurrence is much less likely as it relates to the judiciary. Cochran's concerns about the dominance of politics of interest carries greater weight in those states where judges are elected in a highly politicized process as opposed to those jurisdictions where judges are appointed and then placed on the ballot and voters determine whether or not to retain a particular judge. Some might argue that the former

can lead to judicial obligation or at least the appearance that a contributing party may receive preferential treatment, as opposed to the latter, which while still being political in nature, is a compromise that encourages some accountability to the citizenry.

While some may theorize that the impact of the public interest is minimal, it is difficult to argue that there is no impact on democratic governance based on practical experience. Even if it is difficult to quantify the impact of public interest, the citizenry has noteworthy views of democratic forces and their effect on governance. One author writes, "In their overt behavior, the people of a democratic state respect the authority of their officials and institutions…"(Cassinelli, 1961, p. 155). He adds, "And they and their leaders probably have a better grasp of standards of political value than they have been credited with" (ibid, 1961, p.155). This commentary is used to illustrate that there is a relationship between the public and their governmental institutions, including the courts, and in a democratic society the public interest is at the core of that relationship. Cassinelli continues, writing that the public interest identifies with, "…the methods rather than the results of policy-making; it appears more generally as the attitude of the 'organization man' who values the personal relationships necessary for action, but who is relatively indifferent to the results of that action" (ibid, 1961, p. 156). This passage speaks to the concept of representation, whereby those involved in ensuring the common good are representative of general societal concerns as they engage in various functions in a manner that has efficacy.

Another prominent writer/philosopher begins with a general theory of rights, all of which are personal, social, and public (Schneider, 1956, pp. 51-120). He expresses the importance of rights and the public interest, stating, "All rights are public in the sense

that they must be held openly by a group as part of that group's structure. Just as it takes more than one person to arrive at an agreement, so it takes explicit, public recognition to establish a right or obligation that has juridical status" (ibid, 1956, p. 66). There are many examples of rights that have juridical status. Nearly one hundred years ago the U.S. Supreme Court recognized, in a legal decision, rights and their relationship to governance or what might be deemed the public interest writing, "The right to sue and defend in the courts is the alternative of force. In an organized society it is the right conservative of all other rights, and lies at the foundation of orderly government" (U.S. Supreme Court, 1907). Schneider notes the linkage between individual rights and governance. He states that for any right in a democratic society to have true legitimacy it must have at least the tacit acknowledgement, if not approval, of the general population. In addition, Schneider identifies that beyond rights, the public interest also includes the expectation that a government, which includes courts, fulfill certain obligations. These obligations might include the resolution of legal disputes, the construction of roads, the regulation of intrastate commerce, taxation, and providing for the general welfare. He writes, "When we think of 'the common welfare' as the object of public interest, it is not each member's *happiness*, nor his achievements, nor the *summum bonum*, that is at the center of attention; the primary object of public concern, in addition to rights, is *needs*" (Schneider, 1956, p. 103). Schneider links bureaucratic responsibility, whether it involves the activities of an elected official, public servant, judge or court administrator, to the public interest. He writes, "Public life is three-dimensional: it makes certain demands, it ministers to certain needs, and it cultivates certain personal standards. The demands which members of a community make on each other establish a social

framework, structure, or constitution, which is too often interpreted as the very substance or foundation of society. It is really society's skeleton" (ibid, 1956, p. 129).

The courts, in protecting individual rights and liberties, help to reinforce a stable democratic government. In the United States, this stability stems from authority granted by the Constitution from which each state derives its own constitution. In doing so, a system of checks and balances is maintained with the courts' judicial powers serving as a counterbalance to the power of the executive and legislative bodies. In addition to checks and balances, courts form the institutional linkage from which other central ideas paramount to United States democracy resonate including justice, equity, separation of powers, and freedom.

One of the main roles of government is to ensure that the public interest is maintained. In doing so, those operations crucial to society often fall within the purview of the public sector. In the same way that it is necessary for the government to provide for public safety, build roadways, and see to it that the next generation has educational opportunities, it is also important to provide adequate resources for viable and well-functioning court systems. The call for adequate resources to operate court systems is currently not the beneficiary of good timing, given present economic uncertainties. It is readily apparent that in an era of cutback management, or doing more with less, it is a difficult position that government officials find themselves in. There are many competing interests and values that must be prioritized in an effort to secure funds where there are limited or finite financial resources. It is also incumbent upon the citizenry to be engaged and involved in these processes. The citizenry ought to express concerns to their elected representatives and provide feedback relative to decisions made by those

working within their government. Citizen input, as it relates to courts, is a challenging proposition. It is very difficult to get citizens interested in the courts. This is primarily due to a lack of understanding on the part of the general population. Few outside of the court system truly understand the nature of the courts as an institution. Perhaps the source of frustration with regard to court funding stems from the fact that the issue of resources, or a lack thereof, is not a new one. Court funding has been the subject of concern for many judges, attorneys, and court administrators, even when times have been good. However, the problem becomes more acute during periods of economic downturn.

In light of this, the assertion has been made that courts, like other governmental functions and institutions, serve the public interest. Unfortunately, courts have often been toward the end of the funding line and this has been to the detriment of court systems throughout the United States.

Argument of Constitutional Claim to Minimum Court Funding

Noted legal scholar, Ruth Wedgwood, argues that there is a supportable constitutional claim for minimum funding of state courts (Wedgwood, 1993, pp. 1-12). In her paper she begins by tracing the historical creation of federal courts, embodied in Article III, Section 1, of the United States Constitution. Wedgwood makes her case for minimal state court funding levels writing, "State judges have an even stronger ground than federal courts to argue that a minimum level of funding is constitutionally required for their operation. State courts of general jurisdiction are the bedrock upon which the Founders built; state courts provide the remedies that might not be available within federal jurisdiction, and deliver the basic protections of person and property that form the core of civil society. The effective functioning of state courts is a keystone of

constitutional government: to protect citizens against unwarranted government intrusion, as keepers of the Great Writ of habeas corpus, as guardian of free speech and due process, and to protect positive liberties, as bulwark against crime, and guarantor in commerce and property. When state courts lack decent facilities and courthouse security, or effective probation services to follow offenders after their release, or money to handle arraignments efficiently through night court sessions, the most basic entitlements of citizens and obligations of government are compromised. Judges are frugal folk, and try to make do with what they have, but there is an irreducible minimum necessary for the delivery of timely and real justice" (ibid, p. 4).

Wedgwood suggests three main avenues to address state court funding shortfalls: judicial advocacy; experimentation with court fee structures; and as a last resort, using the theory of "inherent power" to say "No" (ibid, 1993, pp. 6-9).

Wedgwood, in suggesting increased judicial advocacy, writes, "The Canons of Judicial Conduct do not permit a judge to engage in politics with the discreet exception of his own re-election, but he is permitted to make the problems of the judicial system known to the public and the legislature" (ibid, 1993, p. 6). Judges are engaged in greater advocacy efforts on behalf of their courts and the judiciary. This is especially true of state supreme court justices and presiding judges who use their positions and expertise to inform and educate legislators about the judicial system; and ever increasingly they are speaking to legislators about funding issues.

For example, in 1997 when the Arizona Supreme Court's Administrative Office of the Courts was faced with increased workloads and case processing difficulties within limited and general jurisdiction courts, a work group of stakeholders in the criminal

justice system was convened to secure additional funding from the state legislature. The work group was comprised of judges, court administrators, prosecutors, public defenders, clerks, and other court staff. They immediately recognized that federal, state, and local governments had made concerted efforts to place more police officers on the street while building more prisons. As a result, there was an emphasis on the front and back ends of the criminal justice system. Case processing issues had seemingly been overlooked creating a funding "gap." As a result, the Fill the Gap initiative was launched and judges and other court personnel who advocated for increased funding were instrumental in educating legislators which led to the passage of a law and a seven percent surcharge that earmarked funds for criminal case reengineering and enhanced court collection efforts (Arizona Administrative Office of the Courts, 2002, pp. 1-12).

Although Wedgwood proposes experimentation with user fees, citing that most civil case filing fees fail to cover the cost to process and decide cases, she notes that consideration must be given to ensure that people still have access to the courts without regard to income level. The reliance on court fees and fee-based funding systems will be examined in greater detail later in this writing.

Finally, Wedgwood notes the controversial nature of courts' use of "inherent power" to decline to offer certain services because of a lack of funding. Such a mechanism might be employed to prevent certain legislative mandates absent accompanying funds, however, Wedgwood writes, "…the theory (of inherent power) may deter some thoughtless legislative acts as an *in terrorem* device; but like nuclear deterrence, it works best in reserve" (Wedgwood, 1993, p.12).

The Trial Court Performance Standards and their Relationship to Funding

The Trial Court Performance Standards (TCPS), an eight year project completed in 1997 by the National Center for State Courts and the Bureau of Justice Assistance, serve as a model for how courts ought to function and provide performance measures by which court administrators and judges can assess the efficiency and effectiveness of an individual court. The TCPS have been widely viewed as the appropriate means to measure court efficacy. The TCPS take into account funding and its relationship to performance.

The Trial Court Performance Standards are comprised of five performance areas and 22 standards that have accompanying performance measures. The five key areas are: 1) Access to Justice; 2) Expedition and Timeliness; 3) Equality, Fairness, and Integrity; 4) Independence and Accountability; and 5) Public Trust and Confidence.

For example, the TCPS stress Independence and Accountability. Independence encompasses the belief that the judiciary must maintain itself as a separate branch of government and that judges must remain independent in their decisions since such activities preserve the rule of law and protect individuals from the potential abuses of unchecked governmental power. Independence is combined with the need for comity and accountability to the citizenry. Within the framework of the Trial Court Performance Standards' Independence and Accountability exist two measures: Independence and Comity; and Accountability for Public Resources.

The commentary for the measurement of Standard 4.1, Independence and Comity, includes the statement, "Effective trial courts resist being absorbed or managed by other branches of government. A trial court compromises its independence, for example, when

it…serves solely as a revenue-producing arm of government…" (National Center for State Courts and Bureau of Justice Assistance, 1997, p.18).

Standard 4.2, Accountability for Public Resources, recognizes the importance of resources to a well-functioning court and the need to maximize those resources. The commentary reads, "Effective court management requires sufficient resources to do justice and keep costs affordable. Standard 4.2 requires that a trial court responsibly seek the resources needed to meet its judicial responsibilities, use those resources prudently (even if they are inadequate) and account for their use" (ibid, 1997, pp. 17-18).

The ABA's Standards of Judicial Administration and Court Funding

The American Bar Association (ABA) is much more pointed in its assessment of the disconnect between sustained funding and the operational effectiveness of state courts. In 1974, ABA's Judicial Administration Division originally developed and published the Standards of Judicial Administration, with the assistance of a grant from the State Justice Institute. The Standards were adopted by the ABA membership. In 1990, the Standards of Judicial Administration, and Volume 1 entitled *Standards Relating to Court Organization*, were revised and adopted by the ABA membership. Included in these provisions was a tacit understanding of the funding issues being encountered by many state courts.

Section 1.50 of the Standards of Judicial Administration's *Standards Relating to Court Organization* makes specific reference to finance and budgeting and includes a general principle which states, "Responsibility for the financial support of state court systems should be assumed by state government. Where this is not practicable at once, a program should be adopted for gradual assumption of this responsibility in the course of

time. The court system should receive financial support sufficient to permit effective performance of its responsibilities as a coordinate branch of government. The level of support should include adequate salaries for judicial and non-judicial personnel, necessary operating supplies and purchased services, and provisions as needed for capital expenditures for facilities and new equipment. The financial operations of the court system should be administered through a unified budget in which all revenues and expenditures for all activities of all courts in the system are presented and supervised" (American Bar Association, 1990, pp. 106-107).

It is recognized that the recommendation is just that - a recommendation - and thus, non-binding to any state funding authority. However, such a recommendation from a prestigious organization like the ABA, helped to further bring the need of dedicated court funding to the forefront and likely generated significant debate on the topic.

A lengthy commentary that follows the funding recommendation in Section 1.50 is worthy of additional description, for it helps to clarify the call for court resources. The commentary recognizes that most courts do not receive state-appropriated monies for their operations, and further indicates the types of problems inherent in those court systems that rely on localized funding mechanisms stating, "Financing by local government leads to fragmented and disparate levels of financial support, particularly for support and ancillary court services; to direct involvement of the judiciary in local politics; to rigidity; and very often parsimony in provision of needed resources" (ibid, 1990, p. 107). Also, according to the commentary, "Dispersion of financial responsibility and financial management tends also to disperse responsibility for administration and policy, so that the court system cannot be operated according to

uniform procedures and standards even when this is attempted through administrative policy and direction" (ibid, 1990, p.107). In other words, varied funding mechanisms can create disparity amongst courts and result in inconsistent practices and services to the public, as a result of varied levels of funding. This same phenomenon has been observed throughout the country in the realm of public education. Because many districts are funded on the basis of property tax revenues, certain districts receive greater levels of funding than others and this creates "haves" and "have nots." Such a system becomes pervasive and significant differences can be seen in teacher pay, school facilities, and the quality of education from district to district. These disparities have been and are the subject of lawsuits, often brought in the name of the public interest, with many judgments resulting in a determination that school funding systems based on property taxes are inherently unfair and/or illegal.

Finally, the commentary gets at the core of the funding issue, stating, "The capacity of the court system to perform its functions is determined by the financial resources available to it. Sufficient funds are required to attract and retain competent judges and court personnel; to provide adequate supplies and maintenance, court rooms, judicial chambers and offices, offices and other places of work for administrative and other staff, court law libraries and automated legal research, and courthouse buildings; to purchase services such as those of physicians and psychologists, expert witnesses and examiners, consultants in court administration and operations, and other specialized services that are uneconomical for the court system to provide through its own personnel" (ibid, 1990, p.108).

Other Court Funding Issues

In 1993, The Roscoe Pound Foundation sponsored a roundtable that included judges, lawyers, social scientists, academicians, journalists, and representatives of advocacy groups, government agencies, and private organizations to examine funding issues and their impact on the United States court system. The roundtable discussions were summarized in a report entitled, *Justice Denied: Underfunding of the Courts.* The Pound roundtable focussed on immediate funding issues while attempting to define how money appropriated to the judiciary should be spent and realistic expectations for the criminal justice system (Wolfson, 1994, p. v).

According to the report from the Pound roundtable, "Most of the participants subscribed to the view that our justice system is being asked to assume too may functions that it is not well equipped to carry out, particularly to resolve social problems that it has been unable to ameliorate. These include juvenile cases, crime prevention, and an overwhelming number of drug offenses" (ibid, 1994, pp. v-vi).

The Pound roundtable noted that during the late 1980's and early 1990's the increased number of drug cases and the mandatory minimum sentencing requirements put additional demands on criminal courts, thereby negatively impacting the civil justice system. In turn, many courts allocated resources to criminal cases to the detriment of civil cases, which comprise a higher volume of cases within most systems (ibid, 1993, pp. 1-3).

The Pound roundtable also used information from another survey to help frame its discussion. The American Bar Association's Special Committee of Funding the Justice system noted:

- Courts in twenty-five states reported budget cuts between 1990-1992.
- During this same period, 18 states noted significant delays in their criminal case processing times while ten states reported moderate delays in processing civil cases.
- At some point during 1991, eight states suspended their civil jury system due to a shortage of funds.
- Fifteen states implemented hiring freezes, laid off personnel or utilized unpaid furloughs to address salary shortfalls.
- Public defenders in five states rejected cases due to insufficient resources.

(American Bar Association, 1992)

The ABA survey finding regarding indigent defense was reaffirmed in the Roundtable's Report, which stated, "More than 75 percent of people charged with a crime in the United States rely on the services of a public defender. The annual cost to the public defender system is approximately $1.5 billion" (Wolfson, 1994, p.6). The report added, "In recent years, the process for paying court appointed lawyers who represent indigent defenders under the Criminal Justice Act has taken on a perils-of-Pauline aspect: Payments are suspended, causing panic and protests of hardship, then payments are eventually resumed. But because defense services are forced to compete for scarce resources with general judicial funding and money for drug treatment programs and halfway houses, other parts of the system inevitably suffer" (Wolfson, 1994, p.6).

Some of the fiscal concerns of the 1993 Pound roundtable are being repeated. Various states have encountered fiscal difficulties due to an economic downturn that was officially designated a national recession by economists in January 2002. According to the economists the recession began in March 2001. Many also link the September 11,

2001 terrorist acts and the loss of life, injuries, and destruction of the World Trade Center and Pentagon to the current economic conditions. The attacks created confusion and caused uncertainty that decimated the United States financial markets in the weeks following September 11, 2001.

It is difficult to determine how long the current economic downturn will last and there are some indications that things may be turning around. However, the fact remains that current economic conditions have negatively impacted state and local budgets. For example, in Arizona the state legislature is addressing a budget deficit of $200 million for Fiscal Year 2002 and is facing a $1 billion shortfall on the Fiscal Year 2003 budget (Arizona Republic, 2002, p. B-11). As a result, all state agencies, including the Administrative Office of the Courts, were required to return four percent of their overall budgets. Cities in Arizona have also been impacted. The Tempe Municipal Court was required to return three percent of its entire budget to the City of Tempe, an amount of $78,572. Arizona is not alone in attempting to address governmental budget deficits.

This past summer Minnesota faced a budget so severe that the state planned to significantly reduce all governmental functions. The crisis was the result of lawmaker's inability to pass eight major funding bills and a tax bill by the end of the legislative session. Ultimately, lawmakers did reach a consensus and approved funding that kept the state in operation.

During the budgetary debates the Supreme Court of Minnesota and its Judicial Center found themselves in a unique situation. The Attorney General, Mike Hatch, filed a motion June 21, 2001 asking the court to assure funding of critical governmental functions. The motion requested that the judicial branch assume responsibility for

funding "core governmental functions" by ordering the finance commissioner and the state treasurer to issue checks from the general fund to pay for services. The plan also called for the state court administrator to determine core functions based on recommendations submitted by agency directors (Carlson, 2001).

Ironically, Minnesota's Supreme Court almost found itself in both an unusual and expanded role relating to the budgetary dispute. This potential expanded role would have followed the Florida Supreme Court's involvement in, and subsequent ruling of the United States Supreme Court regarding the 2000 presidential election eight months earlier. In that matter, the Supreme Court's ruling essentially determined the outcome of the election. This illustration serves as a further example of the importance of courts as an institution and the increased reliance of society on courts to resolve disputes, including controversies of a non-traditional nature.

Court Funding Models

There are vastly different funding models from state to state. In rare instances, there are those states that fund the entire judicial system, whereas others fund only portions of the courts' overall activities. Some pay for probation services and include those functions within the judicial branch, while others maintain their probation services entirely separate from the judiciary within the executive branch, often combined with parole responsibilities. Still other states fund specific areas like jury service, court-appointed counsel, pre-trial services and even court clerks' personnel.

More often than not, facilities are funded at the local level, by a county, district, parish, municipality or other local political subdivision. In most instances the aggregate of court activities are funded locally.

Many systems fund judges' salaries, at least in part, yet many argue this is still not enough. In addition to judicial salaries, there are many other court operations that lack adequate funds. There are always certain "uncontrollable" costs that courts must bear including the appointment of defense counsel to ensure representation for indigent defendants who have a liberty interest at stake; the maintenance of functioning courtrooms and related facilities to aid in the effective and efficient operation of venues where hearings and trials are held; and appropriate staffing levels to process accompanying documentation necessary to conduct court business. There is a great deal of information, even in the courts that are not "courts of record," that is filed, retrieved, and used in court proceedings.

Systems that focus solely or even primarily on judicial salaries fail to take into account the vast array of services the courts provide. Such a focus on judicial salaries is not unlike recent "get tough on crime" efforts that increased funding for police officers at the state and local level but failed to take into account how that funding and additional officers making more arrests, would impact the rest of the criminal justice system. In actuality, additional police officers usually lead to greater enforcement activities, which results in additional workload for prosecutors, defense attorneys, judges and other court personnel. Social service agencies are also impacted by increased police enforcement, yet people associated with those very important roles find themselves continuing to operate with inadequate funds and a level of unmet needs that are often even more pronounced than others operating in the criminal justice system.

Again, as court funding systems are described it becomes apparent that there exists a vast patchwork of funding streams through which efforts are made to address the

varied functions of courts with some degree of efficacy. For simplicity, this paper will examine three funding systems: localized funding systems; state-funded systems; and fee-based funding systems. Each of these categories are not mutually exclusive, but will serve to illustrate some of the fiscal concerns facing most courts.

Localized Funding Systems

Localized funding systems tend to be more decentralized within a state and courts often directly approach their funding authorities. Limited jurisdiction courts submit budgets to their municipalities. Justice courts in the western United States seek resources from their administrative bodies and/or a county board of supervisors. General jurisdiction trial courts prepare budgets for the county, district, parish, or other local political subdivision. Carl Baar cites the extent to which courts are funded at the local level writing, "…three dollars out of every four spent on nonfederal courts in the United States come from local governments rather than state treasuries" (Baar, 1975, p. 115).

Courts operating within a localized funding system have some advantages in securing necessary resources. Court administrators tend to have forged close relationships with the decision-makers within their funding authorities. Furthermore, because of these relationships, there tends to be more direct lines of communication. Courts also tend to have more funding options beyond the local level. Additional resources may be procured from state funding authorities and/or state and federal grants. If a court has more readily available sources of funding that court may also be said to be more autonomous.

Baar conducted research and administered surveys and the results demonstrated that funding difficulties perceived by the courts themselves were no greater for those

locally funded than those in state-funded systems. He writes, "…the responses suggest that an increase in the percentage or breadth of judicial activities funded by the states will not necessarily bring the courts the money they want" (Baar, 1975, p. 125). From this finding, one might surmise that courts in larger metropolitan areas with stable economic conditions and sustainable revenue sources enjoy greater flexibility and autonomy then they would in a state-based funding system.

State-Funded Systems

There are relatively few state-funded judicial systems in the United States. In this model, either all or most of the judiciary is supported exclusively by state funds. This type of arrangement might also be referred to as a unified court system. In those states where the general fund is characterized as stable (usually this a state with a growing population and sustainable tax base), such an option may appear attractive to those within a court system. However, the legislative power over the judiciary is often greater than in those states where there is localized funding or even a fee-based model.

In nearly all instances involving the appropriation of funds to the judiciary, the judicial branch is required to submit budgetary requests to a state legislature in the same manner as other governmental agencies. The request is usually made through the state's Supreme Court or the Administrative Office of the Courts. This arrangement occurs in other funding models like when a general jurisdiction court submits to a county, district, or board of another political subdivision. Limited jurisdiction courts also encounter the same arrangement at the city level without regard to the municipality's form of government (power centralized in either a mayor/council or in a city manager). In most instances the power of the legislative body to consider judicial budgetary request in the

same manner as other governmental budgetary requests has been accepted, often as a matter of tradition. Thus, a legislative branch is in a position to set fiscal policy and determine priorities for a judicial branch and this can create some serious separation of powers issues.

A court scholar notes that the judicial branch budgetary requests should not be treated the same as other governmental budgetary requests. He writes, "Because courts are a separate branch of government, they have a different budgetary status than executive branch agencies. This fact, which is often challenged by officials of the other branches, may be made explicit in case law, the state constitution, or statute, or it may be regarded as implicit, pending an open assertion of judicial independence" (Tobin, 1996, p.3).

Robert W. Tobin, like Wedgwood, cautions against Court's use of the "inherent powers" doctrine writing, "Invocation of inherent powers is only a last resort, because it involves a test of strength between branches. It is usually directed against local governments rather than state governments because the opposition of a governor or state legislature is more formidable…In any event, an inherent powers suit is a unique judicial prerogative and not a management option" (ibid, 1996, pp. 3-4).

In state-funded systems the judiciary has less fiscal independence than in other funding models, as there are few, if any, funding alternatives. In those states where the judicial branch activities are primarily if not wholly funded by the state general fund, often the arrangement was initiated many years ago when the judiciary and judicial budget was relatively small in comparison to executive and legislative agencies and other

funding obligations. As the judicial budgets have grown in size, so too have the fiscal tensions between the legislative and judicial branches.

In the past there may have been little consideration given to the fact that the judicial branch was not treated as a coequal to the legislative branch in fiscal matters, however, as judicial needs for resources have increased funding disparities have become more pronounced. Part of this dilemma is the result of laws passed by legislatures that require courts to spend additional resources on case processing or assume other responsibilities without adequate funds. Another factor leading to the expansion of court budgets relates to constitutional mandates at both the state and federal levels, like provision of counsel for those who cannot afford representation, the automatic appeals process in death penalty cases, mental health evaluations to determine competency, and interpreter services for the increasing number of defendants who use a language other than English. Thus, it has become more costly to operate court systems in an impartial manner that ensures justice for all.

In recent years, some states have assumed responsibility for funding court operations. A unified approach to court funding may result in centralized budgeting processes that can lessen the managerial autonomy of general and limited jurisdiction courts. However, some state-financed systems can utilize a more decentralized approach where individual courts submit their budget requests to a state administrative office in a similar fashion as those courts would submit requests to a local funding authority. The state administrative office then discusses each budget package with the submitting court to determine one main budgetary request that is forwarded to the state legislature. It is

important to note that even under this approach individual courts do not directly submit their requests to the funding authority within a state-based system.

One pitfall for individual courts operating within a state-funding model is that they must compete directly with other courts to secure limited resources. Additionally, there are fewer funding streams in this type of arrangement. Court administrators that do not obtain what they believe to be adequate funding during the competitive process are left with fewer alternatives than their locally-funded counterparts. Often the only recourse is to seek federal grants or even state grants, if available. However, grant writing is still a competitive process and there are no guarantees when it comes to actual awards. Consequently, an increased reliance on grants is not only precarious, but time consuming and may necessitate additional staff dedicated solely to grant writing activities.

The budgeting process and the court interaction with the funding authority is an important variation in state-based funding systems. Tobin states that budgeting processes vary by the degree in which budgetary centralization occurs. He differentiates between five models that he classifies as: the centralized model; the horizontally unified model; the regionally decentralized model; the circuit-based or county-based decentralized model; and the California model (Tobin, 1996, p. 11). According to him, in the centralized model a state administrative office coordinates and manages the budgeting process, and therefore individual court participation is limited to providing budget information. In the horizontally unified model a presiding judge or court administrator prepares a budget for the courts within state and then presents that budget to a state administrator for review. In the regionally decentralized model courts are grouped and

courts in the region interact with a presiding judge or court administrator instead of a state court administrative office. The circuit-based or county-based decentralized model is the least centralized and the budgeting unit is smaller than the regionally decentralized model. The California model evolved as the state assumed greater funding responsibilities for the courts, over time. Until recently, the state would partially reimburse the county for expenses it incurred in operating the court system within its boundaries. All state appropriations were reviewed by a commission that was comprised of the trial court judiciary throughout the state, however, appropriations were made directly to the counties. California's process to unify the court system, its budgetary practices, and the full assumption of state funding of the judiciary has been years in development. Even now, the California judicial system is addressing its budgetary processes as it finalizes the unification process.

Fee-Based Funding Systems

Courts receive various payments in the form of fines, fees, and associated surcharges that are mandated by state statutes or local ordinances. Additionally, courts charge users for an array of services including the imposition of filing fees, and in some instances for diversionary options like defensive driving programs. On other occasions payments may be made directly to a service provider working on behalf of a particular court. This might include counseling services or supervised probation.

In those court systems where operating budgets are determined by the funding authority in direct relation to the revenue that courts produce, such an arrangement may be characterized as a fee-based model. At this point it is necessary to make an important distinction. There are funding processes where courts receive appropriations from a state

legislature that may, at first glance, be classified as a state-based funding model. However, upon further examination, if it is determined that the state funding authority simply takes revenue generated from courts (often deposited in the state treasury) and then allocates those funds back to the courts with a total appropriation based solely on the amount of revenue generated, then that system may be more appropriately classified as a fee-based model.

Many within the court community are divided regarding the use of fines, fees, and surcharges to fund court systems. There are those who view such payments as user charges and deem them appropriate if those charges are meant to offset the direct costs associated with case processing and if those costs are borne by the individuals receiving the services. Advocates of this approach might argue that user charges are a type of cost recovery or that certain fees are necessary to cover the costs of a court's administrative responsibilities.

However, in some states fees and related surcharges are nearly the same amount or even more than the base fine. Where this is true, it can be argued that courts are operating as a tax collector for a legislative branch, especially if significant portions of the fines, fees, and surcharges are deposited into a state's or municipality's general fund, once the payment is received by a court. The previously described scenario can erode the public's trust and confidence in a court system, especially if courts are perceived to be in lock step with the legislative bodies as fees and surcharges are increased.

Jonathan P. Nase recognizes the impact of fines as a means to punish but also offers a cautionary warning. He writes, "Criminal fines and similar payments are widely accepted as a form of punishment, and their imposition and collection can further both

the revenue agent role" (Nase, 1993, p. 199). He adds, "A problem arises when legislatures view economic sanctions primarily as a fund raiser rather than an element of criminal justice" (ibid, 1993, p. 199).

A court's revenue agent role that extends beyond the scope of simply collecting court assessments may possibly undermine judicial neutrality. This potential conflict is of serious concern for those courts funded by a fee-based system that are dependant on the revenue they generate to support their own operations.

It is a basic principle that in order to ensure judicial neutrality the judge cannot have an interest in the case that is before him/her. The U.S. Supreme Court affirmed this principle many years ago in one of its rulings, *Tumey v. Ohio* (U.S. Supreme Court, 1927). The Court restated its position in another ruling (*Ward v. Monroeville*) when it overturned a local ordinance that authorized a mayor to serve as a judge in certain traffic matters, given that part of the mayor's salary and a portion of the municipality's budget were derived from revenues received from court fines (U. S. Supreme Court, 1972).

Again, a court can be seriously compromised if the public perceives that judicial decisions are based on a need for revenue. This potential problem is most acute at the municipal court level, especially in those jurisdictions that adjudicate large volumes of civil traffic and parking complaints.

An example that illustrates the tension between a court's role as objective adjudicator and the public's perception of a court as a revenue generator involves the use of photo radar. It's important to note that the public often views the court as being responsible for a municipality's photo radar or red light camera program since that is the venue where cases may be disputed. In fact, the placement and operation of photo radar

equipment and red light cameras are enforcement functions and therefore, the responsibility of a police department. Often the public believes that photo enforcement is used to generate additional revenue for a municipality. While this might be the case in some jurisdictions, there are instances where photo enforcement has generated less revenue than anticipated. This is true of Los Angeles County's red light photo enforcement program (O'Connell, 2000) and in Mesa, Arizona where, as of this writing, photo enforcement costs have been greater than the revenue the city has received, after paying their contracted vendor. It is not this writer's intention to debate the merits of photo enforcement. Instead, this example is used to illustrate how courts might be impacted by the use of photo enforcement in an environment where a court is funded by a fee-based model.

Fee-based systems are much more likely to be encountered within municipalities or other limited jurisdiction courts. Often, limited jurisdiction courts will remit a portion of the fine, fees, or surcharges to a general jurisdiction court, state administrative office, or a state treasury. From there, funds might be dispersed to other courts. The following description is typical of this arrangement. A judge in a municipal court finds a person responsible for a traffic violation and upon that finding, orders a person to pay an amount that includes a base fine, local fees designated by an ordinance, and a state surcharge. Upon receipt of the fine, the municipal court transmits the surcharge monies to the state treasury. Staff at the state treasurer's office divides the surcharge into various accounts based on different percentages, as prescribed by law. In this scenario surcharges may or may not be used to fund court specific activities. In some instances part of the monies may be redirected from the state treasury to help fund general jurisdiction courts either

through direct appropriations, or in the form of monies sent from the state treasury to the state court administrative office. The administrative office might even use a grant process to distribute funds based on requests received. Thus, limited jurisdiction courts may be viewed to have revenue generating responsibilities in order to assist in the funding of general jurisdiction courts, which are less able to offset costs associated with case processing, especially in criminal matters. Revenue from limited jurisdiction courts may even be used to fund statewide initiatives, like automation.

Where Does the Money Go?

The Fine for a Typical Speeding or Red Light Violation in the City of Tempe, Arizona is $145.00

$61.92	*Base Fine (City of Tempe General Fund)*
$10.00	*Court Enhancement Fund (Local Ordinance 2-30)* to Tempe Municipal Court budget for exclusive purpose of enhancing the Court's technology, operations and facilities.
$10.00	*Public Safety Enhancement Fund (Local Ordinance 26-60)* to City of Tempe's General Fund for enhancing general operations of the Police Department, including technology, operations, facilities, and salaries.

77% State Surcharges

$38.51 (47%)	*Criminal Justice Enhancement Fund (A.R.S. 12-116.01A)* The state treasurer administers this fund and distributes the monies to provide support to the Arizona automated fingerprint identification system, juvenile corrections for the treatment and rehabilitation of youth, peace officers training, prosecuting attorney's training.
$10.65 (13%)	*Medical Services Enhancement Fund (A.R.S. 12-116.02)* The state treasurer administers this fund and distributes the monies to the substance abuse services fund, emergency medical services operating fund, spinal and head injuries trust fund.
$8.19 (10%)	*Clean Elections Fund (A.R.S. 16-954C)* Fund administered pursuant to A.R.S. 16-954C.
$5.73 (7%)	*Fill the Gap Fund (A.R.S. 12-116.01B)* Monies distributed to the state aid to county attorneys fund, state aid to indigent defense fund, state aid to the courts fund, the department of law for the processing of criminal cases, the Arizona criminal justice commission, the supreme court for allocation to municipal courts.

Source: Tempe Municipal Court December 31, 2001

Ron Zimmerman writes about five myths associated with fine collection in his article, *Dollars and Sentences: The Fiscal Seduction of the Courts* (Zimmerman, 1990, pp. 19 –24).

His first myth is that courts should make money. He notes that in Fiscal Year 1989, Arizona courts spent $189.8 million and took in $84.4 million and that municipal courts spent $31.1 million and took in $44.2 million (ibid, 1990, p. 21). Twelve years later, according to a Fiscal Year 2001 Annual Report, Arizona courts spent $481.3 million and took in $199.1 million (Arizona Administrative Office of the Courts, 2002, p. 7). Interestingly, limited jurisdiction courts accounted for 72.2 percent of all revenue generated, the general jurisdiction courts accounted for 25.5 percent of the revenue, and 2.3 percent of all revenue was generated by the appellate courts (ibid, 2002, p.7). However, limited jurisdiction courts accounted for only 22.1 percent of all court expenditures. 67.5 percent of total expenditures occurred at the general jurisdiction superior court (which included probation services), and the appellate courts and the state administrative office were responsible for 10.4 percent of all expenditures (ibid, 2002, p.7). During this same time period, the Tempe (Arizona) Municipal Court spent $2.8 million and took in $3.4 million. Zimmerman's first myth seems to hold true. On the whole, a court system costs more to operate than the system can generate in revenue. Also, most courts do not make money, but there are instances when some do.

Zimmerman's second myth involves mandatory sentencing and progressive penalties. He writes, "Progressive sentencing as a deterrent and a revenue raiser has some serious flaws" (Zimmerman, 1990, p.21). A legislature may enact large fines to deter certain behaviors. This may result in a situation where a person owes a great deal

of money, based on their income, with no means to pay the obligation. Additionally, if the person cannot pay, the court assumes an increased accounts receivable balance.

Zimmerman writes that the third myth, "…is the fundamentally unsound idea that misdemeanants should, and can, bear the cost of operating the lower courts as well as support the plethora of agencies and funds that are external to the trial jurisdiction…" (ibid, 1990, p. 21). Again, Zimmerman is right on target in his assessment. Given the information cited earlier regarding the Arizona Judicial Branch's expenditures and revenues, it is clear that limited jurisdiction courts cannot fund an entire court system. It is equally apparent that limited jurisdiction courts as a whole can generate more revenue than the amount they expend.

Myth four relates to the ease with which fines can be collected. Zimmerman points out that traffic offenders are more likely to pay fines than nontraffic misdemeanants. He also correctly states that given the many issues defendants may have on top of owing a fine, it is unrealistic to expect courts to collect high percentages of fine amounts that are imposed. While his point is well taken, it is still incumbent upon court staff to do everything within their wherewithal to ensure that fines are collected. This concept goes beyond revenue generation. An order from a judge must be taken seriously, whether it be jail time, a suspended sentence with supervised probation, a requirement to complete an alcohol screening, or a fine.

Finally, he states that it is a myth to suggest that increasing fines will produce sufficient revenues to cover costs. If all fine amounts imposed were determined based on related court costs, there would be serious issues regarding the indigent that are represented by court-appointed counsel. Some fines would be unrealistically high given

related processing costs, and the integrity of the court system would be in question. Zimmerman writes, "...a good case can be made that any comparison of court costs with revenue generated by fines is a futile exercise and, certainly, an invalid measure of court performance" (ibid, 1990, p. 22).

In his summary, Zimmerman argues that courts should have a dedicated funding source without regard to revenue. He writes, "The most likely prospect for ensuring the dignity and independence of the judiciary is to free lower courts from the compromising influence of local funding (ibid, 1990, p. 22). He adds, "All tracks lead to the same depot – consistent, reliable state funding of a truly unified court system with validated funding criteria" (ibid, 1990, p. 22).

Gubernatorial Initiatives and State Judiciaries (2002 State of the State Addresses)

Thus far, the appropriateness of sustainable resources for courts, funding models and related issues have been examined. As of this writing, many states were combating difficult economic circumstances. Another interesting issue involves the effort to ascertain if any relationship exists between state governors' responses to economic challenges and court funding concerns.

In late 2001 and early 2002, 43 states were experiencing revenue shortfalls, holdbacks, and budget cuts. Additionally, some governors and legislatures were even considering tax increases to balance state budgets.

The Iowa legislature called a special session in November 2001 and reduced its fiscal year 2002 budget by $186 million to stabilize its projected shortfall. Illinois is facing a $500 million deficit. Wisconsin is addressing a $300 million shortfall and projections indicate the situation is only getting worse with an estimated $1.3 billion

deficit by 2004. Missouri law makers cut $600 million from their current budget and still have to make another $500 million in cuts by fiscal year 2003. The governor of South Dakota recommended the state use almost $12 million in reserve funds to balance the fiscal year 2002 budget and another $36 million was being considered to address expected deficits in the following year. Minnesota's original budget shortfall was $2 billion. Kansas' lawmakers are looking to cut more than $425 million in expenditures from the state general fund. The Virginia Commonwealth is addressing $3.2 billion in shortfalls; $1.2 billion in fiscal year 2002 and $2 billion in fiscal year 2003. Washington's state budget is currently $1.2 billion in the red and Nebraska's fiscal year 2002 budget has a deficit of $50 million. Connecticut's fiscal year 2002 budget deficit is $350 million and the state has a projected $650 million shortfall to address prior to fiscal year 2003. And the list goes on…

Courts may constitute a separate branch of government, but they do not function in a vacuum. As such, a few research questions involving governors became increasingly relevant. First, how have state chief executives responded to current conditions and what have been their priorities? Second, have governors considered courts and their role in governance when articulating their priorities? Third, in what capacity might courts be impacted by gubernatorial priorities?

In an effort to answer the three research questions the following methodology was employed. The texts from governors' State of the State Addresses were obtained via the Internet. A listing of all web addresses is contained in an Appendix in this paper. The State of the State Addresses were reviewed and gubernatorial priorities determined based on governors' actual statements. For example, obvious expressed preferences, like when

California Governor Gray Davis' says, "Let me be clear: education will be protected above everything else in my budget" were easily determined. Another example of the ease at which the main initiative is determined is when West Virginia Governor Bob Wise says, "The first priority of government must be to protect the public safety." Another example of this, is when Florida Governor Jeb Bush states, "Let me say that again: excellence in education must be our highest priority." In those instances where multiple preferences were expressed or in the rare occasions where there was no explicit priority, a determination of a governor's main initiative was based on the amount of time, as a proportion of the entire State of the State Address, the particular governor spent in describing and articulating a particular issue or emphasis. This type of determination was necessary in only a few of the Addresses. The total sample size was 48. State of the State Addresses were not available on-line for Louisiana and New Jersey.

Gubernatorial Initiative	State
Economic Development	AK, CO, DE, MA, MS, MT, NM, NH, NY, OH, OK, PA, RI, UT, WI, WY
Balancing the State Budget	CT, GA, HI, IL, IN, KA, MN, MO, NE, OR, TN, VT, VA, WA
Education	AR, AZ, CA, FL, ID, IA, KY, MD, MI, NC, ND, SC, SD, TX
Homeland Security/Preparedness	ME, WV
Constitutional Reform	AL
esist Efforts to Store Nuclear Waste	NV

Based on a review of the State of the State Addresses (n=48) priorities were categorized into six groupings: Economic Development; Balancing the State Budget; Education; Homeland Security/Preparedness; Constitutional Reform; and Resist Efforts to Store Nuclear Waste. The previous table entitled *Gubernatorial Priorities Outlined in the 2002 Governors' State of State Addresses* reveals that 16 of the state governors mentioned some form of economic development within their Address. The next most common themes included references to balancing the state budget and education. 14 governors listed balancing the budget as their main priority and another 14 governors referred to education as the primary initiative for their administration. References to state budgeting issues were not surprising given economic conditions and budget deficits previously described. Additionally, state constitutions require a balanced budget. Education is also a predominant theme as educational spending can account for 50 percent or more of an entire state's appropriations. Two governors mentioned the need for homeland security and greater preparedness as their top priority. This need was likely brought to the forefront as the result of the September 11, 2001 terrorist attacks on America. In Alabama, Governor Don Siegelman sought to reform the state's constitution by calling for a constitutional convention in an effort to rest power away from special interest groups. And in another locally inspired effort, Nevada's Governor Kenny Guinn expressed his displeasure with the federal government's intention to store nuclear waste within that state's borders.

The second research question is have governors considered courts and their role in governance when articulating their priorities? While it is impossible to fully determine the gubernatorial decisions that go into drafting a State of the State Address, the

document and content of a governor's delivery must speak for themselves. Based on a content review of the 48 Addresses, only 12 (or 25 percent) clearly articulated matters that could be viewed to have a direct impact on a given state's judiciary. The response to the second posed research question is that in the vast majority of the 2002 State of the State Addresses, there is no mention of the courts. From this, it can be inferred that often the state judicial branch might not even be on a given governor's "radar screen."

The following chart entitled *Gubernatorial References Directly Impacting the Judiciary in the 2002 Governors' Addresses* displays these findings.

Gubernatorial References Directly Impacting the Judiciary in the 2002 Governors' Addresses

State	Issue(s)
Alabama	Victims' Rights Legislation; Tougher Penalties for Domestic Violence Offenders; Crime Bill making sexual predators subject to the Death Penalty; "Truth In Sentencing" for violent offenders.
Alaska	Reintroduction of Hate Crime Bill that didn't receive a single legislative hearing the previous year.
Arizona	Record on judicial appointments.
Colorado	Increased penalties for illegal production of methamphetamines; brief mention of state supreme court's role in redistricting.
Delaware	Police evidence gathering bill and court admissibility.
Idaho	Drug courts in every district.
Kansas	Additional $4.1 million to fully fund the Judiciary.
Kentucky	Family courts; New judgeships; Courthouse construction.
Maryland	Diversity in the Judiciary.
Nebraska	Reform post-conviction appeals process; Change method of execution to lethal injection.
New Mexico	Drug policy reform to combat prison overcrowding; Proposed 68% increase in judicial funding.
North Dakota	Cites benefits of drug courts and seeks further expansion.

The results displayed in the preceding table provide a response to the third research question and are worthy of further description. A summary of the findings is significant not only due to the issues they represent but also because they provide further insight into the limited occurrences where a governor actually articulates a consideration of the state's judicial branch, in some capacity.

Alabama Governor Don Siegelman, in his 2002 State of the State Address, calls for a constitutional convention in an effort to lessen the influence of special interest groups and their political power within the state. However, he also advocates a "tough on crime" approach that would impact the judicial branch. In Governor Siegleman's Address, he states, "One responsibility that remains constant is our obligation to ensure that Alabama families are kept safe. I ask you to pass my crime package that will ensure: that violent offenders serve their sentence, that juvenile thugs serve adult time, that repeat adult sexual predators who violently rape or violently sodomize a child are subject to the death penalty." He adds, "And I demand that you give new rights to victims and toughen punishment for the most cowardly act of all, domestic violence." Again, Siegelman's references are directed toward changing Alabama's criminal justice system and primarily seek to impact the judiciary through mandatory penalties and revised sentencing guidelines.

Governor Tony Knowles, of Alaska, also takes the "tough on crime" approach. He says in his Address, "…we must have tougher laws to prosecute crimes of hate. Such a law introduced and supported by many legislators last session, was not granted a single hearing by this Legislature. I urge you to send a clear message that there is no place for hate crimes in our Alaska." It is acknowledged that one might have to take a "logical

leap" to argue that Governor Knowles' statement, which appears on page 11 of his 12 page statement, impacts the judicial branch. However, this example serves as an illustration of just how little attention is paid to the courts in the 2002 State of the State Addresses. Again, 75 percent of the Addresses do not even deal with the judiciary except to acknowledge that the state supreme court's chief justice is in attendance. This acknowledgement occurs more out of tradition than anything else.

In Arizona, Governor Jane Hull touts her track record regarding judicial appointments during her tenure. She notes that the judiciary is a crucial component of the Arizona justice system. Governor Hull says, "I would like to add that I am especially proud of the judges that I have appointed during my tenure as Governor. Their decisions will impact our society for generations to come. In four years, I have appointed 66 men and women to the bench, including one Supreme Court justice, six Court of Appeals judges, and almost half of the current judges in Maricopa County. The appointments have reflected our cultural diversity while maintaining the highest quality. I have appointed 11 Latinos, and almost a third of all judges are women, including a Supreme Court justice and the first African-American woman to serve as a state court judge in Arizona. I know all the judges I appointed will continue to earn our trust and make me proud many years to come." While this is the only mention of the judicial branch within the Address, it is none the less an important statement because it underscores the important role that courts play in society, especially in regards to the issue of diversity. Interestingly, a few months after this Address Governor Hull appointed another woman to the Arizona Supreme Court. Women now occupy two of the five positions, or 40 percent, of the state's highest court.

Colorado Governor Bill Owens also seeks to enhance certain criminal penalties including the creation of a class five felony for the possession of materials widely used to manufacture methamphetamine. He also seeks to aid law enforcement efforts to find and cease operations of methamphetamine laboratories. He urges lawmakers to come together in a redistricting effort to avoid a potential decision by courts. Apparently, Colorado has been trying to resolve many redistricting issues dating back to 1992. Except for these few statements, there really is no definitive mention of the role of courts and certainly no discussion regarding court funding issues. The governor's main priority, however, is economic development including job creation.

In Delaware, Governor Ruth Ann Minner utilizes one line within her 8 page Address to mention the courts, and even that reference is in relation to law enforcement efforts. She says, "We have introduced legislation to ensure that evidence gathered by the police is admissible in court." That is the extent of her expressed consideration of the judicial branch in articulating her policy agenda. It may not be much, but it's still more attention than most governors give to the third branch.

Idaho's Governor Dirk Kempthorne's primary emphasis is on education. Perhaps that explains why he mentions that the state has made major investments in juvenile and adult substance abuse treatment and education programs in both prison facilities and in communities. He states, "We are also well on our way to establishing drug courts in every judicial district in the state. I want to congratulate the judiciary for all the hard work that has taken place over the last year to provide a framework for drug court implementation. We are finally on a path to expand treatment options for adults and juveniles who need access to these programs." Governor Kempthorne's

acknowledgement of the judiciary's efforts in expanding treatment programs and problem-solving courts in Iowa as well as his recognition of the importance of these efforts is unique within the context of a State of the State Address.

Seemingly not to be out done, Governor Bill Graves, of Kansas, takes an even more radical step for a state chief executive in considering the courts and their role in governance when articulating his priorities. Kansas is a state facing significant budget issues and Governor Graves identifies his main priority as balancing the budget. Prior to his State of the State Address the legislature addressed a $426 million shortfall and identified certain programs and areas of government where cuts were to be made. In his Address, Governor Graves identifies certain areas where he is opposed to the recommended budget cuts and advocates for monies to be placed back into the state budget, in spite of the shortfall. One of these areas where he recommends against any cuts is the judiciary. Midway through his Address he states, "Our judiciary, including local district courts, is strained and limited by the resources we have been providing. I recommend an enhancement of $4.1 million to provide full funding for the judiciary, both in fiscal year 2002 and fiscal year 2003." He adds, "Justice that cannot be accessed is justice denied." Apparently this is one governor who understands the notion of the courts and the public interest and has heard the call for sustainable resources. The outcome of the governor's request would be an interesting area for further study.

In Kentucky, Governor Paul Sutton recognizes the importance of the judiciary and others that comprise the state's criminal justice system in his State of the Commonwealth Address. He acknowledges government's role of protecting the lives and property of citizens and then says, "We've made Kentucky safer, creating one of the nation's best

Unified Criminal Justice Information Systems, improving the training and pay of our sheriffs and police officers and eliminating parole for violent offenders; we've established family courts, and new judgeships and we've invested more in new courthouses in the past six years than in the previous sixty years." From this statement, it can be inferred that Governor Patton views criminal justice improvement from a systems approach that includes the necessity for relevant information through the development of automated systems as well as additional resources for law enforcement. He also specifically mentions gains in problem solving courts and improved court facilities, two areas rarely addressed within the gubernatorial arena, and additional judgeships presumably needed to handle increased case filings.

Maryland Governor Parris Glendening, like his Arizona counterpart, ties the judiciary (and overall government) to the importance of diversity. In his State of the State Address he says, "And there is more diversity in the judiciary and government of Maryland than ever. This diversity is our great source of strength." Again, Governor Glendening's mention of courts is limited to two lines, however, within those lines lie an important concept. He also demonstrates a consideration of judicial functions when delivering his Address.

Nebraska's Governor Mike Johnson uses his Address to articulate the need for a balanced budget. After outlining that priority he says that much still needs to be done in the areas of criminal justice and law enforcement. He asks for additional state patrol officers and seeks to increase their compensation. He also advocates for other "tough on crime" initiatives including lengthening jail time for methamphetamine dealers, criminalizing child enticement, and launching state sex offender registry. From there, he

outlines his desire to reform the post-conviction appeals process, citing what he views to be an inordinate amount of time spent on a case involving post-conviction relief for a defendant that had been convicted of murder and sentenced to life in prison fourteen years earlier. This description occupies a little more than one page of his six page Address, and does illustrate a governor's awareness of judicial actvities.

New Mexico's Governor Gary Johnson expresses his desire for drug policy reform and lists five proposed bills to accomplish this reform. The bills involve: the use of cannabis in certain medical situations; civil asset forfeiture; treatment as opposed to incarceration due to prison overcrowding; habitual offender sentencing reform that would give judges greater sentencing discretion in matters involving non-violent drug offenders; and the assessment of civil penalties for possession of less than one ounce of marijuana. Most of his expressed policies in the State of the State Address regarding the justice system involve the decriminalization of certain drug offenses. While his proposals might be controversial to some people, his statements do reflect a consideration of the judiciary in his policy-making efforts. Additionally, he requests new spending priorities including a 68 percent increase in funding for the judiciary over the next seven years. Apparently a second governor has also heard the call for sustainable resources for courts.

In North Dakota, Governor John Hoeven, provides his endorsement of problem solving courts like drug courts. In his Address, he says, "We must build new initiatives that will benefit the people of North Dakota. One of those initiatives is Drug Court." He adds, "Everyone is familiar with the revolving door of prison and substance abuse. Our prison population is growing, putting pressure on our prison infrastructure. Last year, our Legislature and Department of Rehabilitation did something about it. They worked with

Burleigh-Morton County to establish Drug Court. To date, in North Dakota, the program has saved taxpayers $286,000 in the cost of prison beds, while it is reclaiming lives." At that point, Governor Hoeven thanks the Department of Rehabilitation and recognizes judges associated with the drug court program. He then announces his intention to expand the drug court pilot program to other parts of the state. In Governor Hoeven, advocates of problem solving courts have certainly found a "convert."

The main purpose of examining the 2002 State of the State Addresses was to determine if there were any emerging themes within the Addresses and to answer three research questions: 1) How have state chief executives responded to current conditions and what have been their priorities? 2) Have governors considered courts and their role in governance when articulating their priorities? 3) In what capacity might courts be impacted by gubernatorial priorities?

In response to the first question an aggregation of governors' top three priorities, as noted in their 2002 State of the State Addresses, indicates major initiatives to encourage economic development, to balance state budgets, and to improve education. Some factors for choosing these priorities were hypothesized earlier.

The answer to the second question is that in most instances governors don't seem to express any consideration for the courts and their role in governance within the 2002 State of the State Addresses. A review of the Addresses indicates that 75 percent of the time the governor doesn't even mention the judiciary, however, there are notable exceptions that have been described in this paper.

In considering a response to the third question, it must be noted that there are references to the courts, but in some of these instances it is difficult to determine what the

end result may be. An outline of gubernatorial references to the judiciary has also been described in this paper. Based on the findings as studied in the 2002 Addresses, there are indications that governors will continue to offer proposals to modify the justice system in an effort to increase mandatory sentencing provisions so as not to appear to be "soft" on crime. Other themes include recognition of the importance of diversity on the part of state chief executives and support for problem solving courts, especially drug courts. In very rare instances, like in Kansas or New Mexico, governors may even propose that additional resources for courts are necessary in light of limited dollars and significant needs throughout a state.

Another suggested area of research could include further examinations of State of the State Addresses over a variety of years, and administrations, in an effort to identify and compare any trends or changes in particular policy initiatives as they relate to the judiciary. For example, one might undertake efforts to determine from the Addresses and other sources if gubernatorial concerns about or relations with the state judicial branch have become more collegial and improved over the years or if judicial and executive interactions have become more strained.

Recommendations

This paper has sought to demonstrate that courts function in the public interest and therefore must be given the same funding consideration as any other important governmental activity. Funding models have been described and the varying points of view have been cited.

A serious question remains. What can be done to ensure that courts have sustainable resources? First, judges and court administrators must reaffirm the

constitutional importance of court activities. There must be an ongoing dialogue between the judiciary and executive and legislative branches of government at the local, state, and federal levels around basic democratic principles like "checks and balances," "separation of powers" and the importance of co-equal branches of government.

Second, before succumbing to the temptation to raise fines, fees, and surcharges, courts ought to be encouraged and even provided resources to enhance their collection efforts. It is far better to obtain payments on existing matters that to increase fine amounts or fees and price certain people out of the courts. Excessive fines, fees, and surcharges can become an access issue. Fine enforcement and best practices for court collections are vast and the subject of other writings. At a minimum, court staff should know the fine amounts ordered in each case and the total accounts receivable. For example, recently one state administrative office of the courts attempted to ascertain the statewide accounts receivable for all courts and quickly came to the determination that any estimates were only as accurate as their underlying data. Based on five differing methodologies estimates of accounts receivable ranged from a minimum amount owed of between $153.7 million to $1.5 billion. This is quite a range and reinforces the collection adage that it's difficult to collect a balance if you don't know what is owed. Courts should attempt to send correspondence to those individuals who have not paid their court-ordered financial obligations. Additionally, courts should attempt to enforce court orders through collection efforts that might even include referrals to private collection agencies, under the appropriate circumstances, so long as the court continues to be responsible for the manner in which payment is obtained by its designee. The use of automation for case tracking and payment monitoring should not be overlooked. Well-functioning computer

systems can be expensive, however, the costs of not using technology to even half its potential can be even greater.

Third, court administrators and judges must become even more strategic in their budgeting procedures. It is essential to anticipate expenditures that others might have been unable to foresee. Efforts should be made to reign in "uncontrollable" expenses like indigent defense, psychological evaluations, and interpreter services, to the extent that one can. Also, in the era of cutback management, or doing more with less, it is vital to seek alternative funding sources, if possible, and to streamline court functions while striving for continuous improvement.

Given current fiscal constraints it must be recognized that judges and court administrators may have to rethink many of their current organizational processes. David Osborne and Ted Gaebler, in their book, *Reinventing Government*, write, "We will not solve our problems by spending more or spending less, by creating new public bureaucracies or by 'privatizing' existing bureaucracies. At some times and some places, we do need to spend more or spend less, create new programs or privatize public functions. But to make our governments effective again we must *reinvent* them" (Osborne and Gaebler, 1992, pp. xviii-xix).

Judges and court administrators must be willing to evaluate court functions and processes and be willing to reinvent operations and funding, some times using non-traditional means. One such avenue for reinvention within the court system involves the formation of what the United States Internal Revenue Service delineates as a 501 (c)(3) status, or non-profit organization. The utilization of a 501 (c)(3) organization or other non-profit arrangement can enable courts to accept donations. This suggestion might be

met with a great deal of skepticism. For such an arrangement to be viable, courts must ensure that the ability to accept donations in no way compromises the integrity of the court or its decisions. Certainly, direct donations to a court might raise the appearance of impropriety, however, donations to entities that further the mission of court-related organizations might have merit. A workable solution can be found, provided that such activities are purpose-driven and that the non-profit arrangements are carefully delineated from the court and any and all verdicts that may come form a particular court.

Staff at the National Center for State Courts assisted in the compilation of information regarding organizations that filed for 501 (c)(3) status in order to accept donations or other gifts for the court. The information presented may not be all-inclusive, as courts in many states may be continually engaged in actions to secure donations. However, as of August 1, 2000 the following examples are presented.

In Arizona, the Maricopa County Adult Probation Department's Restorative Justice Resource Council serves as a 501 (c)(3) organization and accepts donations to assist the probation department in providing substance abuse treatment services. The department operates a treatment and education center known as the Garfield Center and has received donations of furniture and educational supplies, through the Restorative Justice Resource Council, whose activities are coordinated by a local attorney.

Also, on two occasions in the late 1990's, two bills were proposed that would allow Arizona courts to accept non-monetary donations. In both instances the bills were approved by the state legislature and forwarded to two separate governors for approval. A different governor vetoed each bill.

In California, various Superior Courts have established 501 (c)(3) organizations to offset some of the expenses associated with the operation of drug courts. In San Diego, California the San Diego Justice Court Foundation, a non-profit organization, funds justice related programs. The Foundation's Chief Financial Officer is also employed by the court as an administrative analyst.

Another non-profit organization, Comfort for Court Kids, provides emotional support in the form of teddy bears to children involved in court proceedings in the Los Angeles Juvenile Dependency Court. The Superior Court, Bar Associations, and various foundations, corporations, law offices, and individual attorneys support the program. Comfort for Kids also conducts various fund raising activities. This particular foundation has lead to the formation of similar type arrangements in San Bernadino and Riverside Counties.

In New York the Center for Court Innovation operates as a non-profit research arm of the New York State Unified Court System. In addition to research efforts, the Center manages various court-community projects.

In North Carolina, the University of North Carolina-Chapel Hill, operates the non-profit Institute of Government (IOG). The IOG has received an endowment that allows it to fund certain judicial education programs throughout the state. The endowment has been used to fund Court Appointed Special Advocate (CASA) programs and some drug court seminars. Finally, in Wisconsin a statute (§20.680) was passed that allows the state court law library to accept private donations.

These recommendations are by no means representative of the endless possibilities that may be used to improve upon the existing financial resources available

to courts. Success will largely be determined by those in the court community who possess creativity, a willingness to be innovative, persistence and a "can do" attitude.

Conclusion

In conclusion, the main thrust of this paper is to define the public interest and given that context, demonstrate that courts, as an institution, do indeed play a necessary and vital role in society. This role in society serves the public interest. As such, all courts should be funded in the same manner as institutions and agencies within other branches of government that also serve the public interest. That is, they should begin with a specified level of funding and be able to seek and obtain additional resources that can be justified through a routine budgetary process, without regard to the amount of revenue that may be produced. Until this occurs, the notion of co-equal branches of government will truly not exist.

Appendix
Governor's State of the State Addresses (2002)

Alabama
Gov. Don Siegelman's State of the State Address delivered January 8, 2002. From Stateline.org/story.do?storyId=216462. Accessed March 29, 2002.

Alaska
Gov. Tony Knowles' State of the State Address delivered on January 16, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=217877. Accessed March 29, 2002.

Arizona
Gov. Jane D. Hull's State of the State Address delivered on January 14, 2002. From Stateline.org. http://www.1.stateline.org/story.do?storyId=217582. Accessed March 29, 2002.

Arkansas
Gov. Mike Huckabee's address delivered January 14, 2002. http://www.state.ar.us/governor/media/releases/press/011402-1.html. Accessed April 1, 2002.

California
Gov. Gray Davis' State of the State Address delivered on January 8, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=216206. Accessed March 29, 2002.

Colorado
Gov. Bill Owens' State of the State Address delivered on January 10, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=216755. Accessed March 29, 2002.

Connecticut
John G. Rowland's State of the State Address delivered on February 6, 2002. http://www.state.ct.us/governor/news/budget2002.htm Accessed March, 31, 2002.

Delaware
Gov. Ruth Ann Minner's State of the State Address delivered on January 17, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=218197. Accessed March 29, 2002.

Florida
Gov. Jeb Bush's State of the State Address delivered on January 22, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=219049. Accessed March 29, 2002.

Georgia
Gov. Roy Barnes' State of the State Address delivered on February 6, 2002. http://www.gagovernor.org/speech/press.cgi?prfile=PR.20020206.01. Accessed March 31, 2002.

Hawaii
Gov. Ben Cayetano's State of the State Address delivered on January 22, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=218885. Accessed March 29, 2002.

Idaho
Gov. Dirk Kempthorne's State of the State Address delivered on January 7, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=215948. Accessed March 29, 2002.

Illinois
Gov. George H. Ryan's State of the State Address delivered on February 20, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=223984. Accessed March 29, 2002.

Indiana
Gov. Frank O'Bannon's State of the State Address delivered on January 15, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=217905. Accessed March 29, 2002.

Iowa
Gov. Thomas J. Vilsack's State of the State Address delivered on January 15, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=217900. Accessed March 29, 2002.

Kansas
Gov. Bill Graves' State of the State Address delivered on January 14, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=217275. Accessed March 29, 2002.

Kentucky
Gov. Paul Patton's State of the State Address delivered on January 10, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=216763. Accessed March 29, 2002.

Maine
Gov. Angus King's State of the State Address delivered on January 22, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=218740. Accessed March 29, 2002.

Maryland
Gov. Parris Glendening's State of the State Address delivered on January 16, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=217884. Accessed March 29, 2002.

Massachusetts
Gov. Jane Swift's State of the State Address delivered on January 15, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=218429. Accessed March 29, 2002.

Michigan
Gov. John Engler's State of the State Address delivered on January 23, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=219004. Accessed March 29, 2002.

Minnesota
Gov. Jesse Ventura's State of the State Address delivered on January 7, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=215937. Accessed March 29, 2002.

Mississippi
Gov. Ronnie Musgrove's State of the State Address delivered on January 16, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=217915. Accessed March 29, 2002.

Missouri
Gov. Bob Holden's State of the State Address delivered on January 23, 2002. From Stateline.org. http://www1.stateline.org/story.do?storyId=219033. Accessed March 29, 2002.

Montana
Gov. Judy Martz's State of the State Address delivered on January 23, 2002. http://www.state.mt.us/gov2/css/speeches.asp?ID=13. Accessed March 31, 2002.

Nebraska
Gov. Mike Johanns' State of the State Address delivered on January 15, 2002. From Stateline.org. http://www1stateline.org/story.do?storyId=217590. Accessed March 29, 2002.

Nevada
Gov. Kenny Guinn's State of the State Address delivered on January 22, 2002. http://www.gov.state.nv.us/sos2001.html. Accessed March 31, 2002.

New Hampshire
Gov. Jeanne Shaheen's State of the State Address delivered on January 17, 2002. http://www.state.nh.us/governor/media/011702softhes.html. Accessed March 31, 2002.

New Mexico
Gov. Gary Johnson's State of the State Address delivered on January 15, 2002. From Stateline.org. http://www1stateline.org/story.do?storyId=217601. Accessed March 29, 2002.

New York
Gov. George E. Pataki's State of the State Address delivered on January 9, 2002. . From Stateline.org. http://www1stateline.org/story.do?storyId=216762. Accessed March 29, 2002.

North Carolina
Gov. Michael F. Easley's State of the State Address delivered February 19, 2002 (Press Release). http://www.ncgov.com/xml/GOV3_021901.asp. Accessed March 31, 2002.

North Dakota
Gov. John Hoeven's State of the State Address delivered January 16, 2002. http://www.governor.state.nd.us/media/speeches/020116.html. Accessed March 31, 2002.

Ohio
Gov. Bob Taft's State of the State Address delivered on February 5, 2002. . From Stateline.org. http://www1stateline.org/story.do?storyId=221420. Accessed March 29, 2002.

Oklahoma
Gov. Frank Keating's State of the State Address delivered February 4, 2002. http://www.governor.state.ok.us/sos02text.htm. Accessed March 31, 2002.

Oregon
Gov. John Kitzhaber's State of the State Address delivered January 23, 2002. http://www.governor.state.or.us/governor/speeches/s020123.htm. Accessed April 1, 2002.

Pennsylvania
Gov. Mark Schweiker's State of the State Address delivered February 5, 2002. http://www.sites.state.pa.us/PA_Exec?Governor/budgetaddress020402.doc. Accessed March 31, 2002.

Rhode Island
Gov. Lincoln Almond's State of the State Address delivered February 26, 2002. http://www.governor.state.ri.us/Gov%27%20Speeches/SOS%20really%20%final%2002.html. Accessed March 31, 2002.

South Carolina
Gov. Jim Hodges' State of the State Address delivered January 16, 2002. http://www.state.sc.us/governor/documents/sots2002.pdf. Accessed March 31, 2002.

South Dakota
Gov. Bill Janlow's State of the State Address delivered January 21, 2002. From Stateline.org. http://www1stateline.org/story.do?storyId=218454. Accessed March 29, 2002.

Tennessee
Gov. Don Sundquist's State of the State Address delivered February 4, 2002. . From Stateline.org. http://www1stateline.org/story.do?storyId=221125. Accessed March 29, 2002.

Texas
Gov. Rick Perry's State of the State Address delivered March 28, 2002. http://www.rickperry.org/Documents?ACF131A.dot. Accessed April 1, 2002.

Utah
Gov. Mike O. Leawitt's State of the State Address delivered January 28, 2002. http://www.utah.gov/governor/stateofstate02.html. Accessed March 31, 2002.

Vermont
Gov. Howard Dean's State of the State Address delivered January 8, 2002. . From Stateline.org. http://www1stateline.org/story.do?storyId=216770. Accessed March 29, 2002.

Virginia
Outgoing Gov. Jim Gilmore's State of the Commonwealth Address delivered January 9, 2002. . From Stateline.org. http://www1stateline.org/story.do?storyId=216470. Accessed March 29, 2002.

Incoming Gov. Mark Warner's State of the Commonwealth Address delivered January 14, 2002. . From Stateline.org. http://www1stateline.org/story.do?storyId=217286. Accessed March 29, 2002.

Washington
Gov. Gary Locke's State of the State Address delivered January 15, 2002. . From Stateline.org. http://www1stateline.org/story.do?storyId=219570. Accessed March 29, 2002.

West Virginia
Gov. Bob Wise's State of the State Address delivered January 9, 2002. . From Stateline.org. http://www1stateline.org/story.do?storyId=216477. Accessed March 29, 2002.

Wisconsin
Gov. Scott McCallum's State of the State Address delivered January 22, 2002. . From Stateline.org. http://www1stateline.org/story.do?storyId=218718. Accessed March 29, 2002.

Wyoming
Gov. Jim Geringer's State of the State Address delivered February 11, 2002. http://www.state.wy.us/governor/sos2002html. Accessed March 31, 2002.

Note: Unable to obtain on-line State of the State Addresses for Louisiana and New Jersey.

References

American Bar Association. 1990. "Standards Relating to Court Organization" in *Standards of Judicial Administration*. ABA Press.

_____. 1992. *Funding the Justice System: A Call to Action*, by the Special Committee on Funding the Justice System. ABA Press.

Arizona Administrative Office of the Courts. 2002. *Fill the Gap: A Unique Effort in Collaboration, 2001*.

_____. 2002. *2001 Report of the Arizona Judicial Branch*.

Arizona Republic. 2002. "Legislative Wrap" in *Valley and State Section*, Sunday, March 3, 2002. Phoenix, AZ: Phoenix Newspapers Inc.

Baar, Carl. 1975. *Separate but Subservient: Court Budgeting in the American States*. Lexington, MA: Lexington Books.

Carlson, Coralie. 2001. "Hatch asks courts to intervene in government shutdown" in *The Star Tribune,* Friday, June 22, 2002. Minneapolis-St. Paul, MN: The McClatchy Company.

Cassinelli, C.W. 1961. *The Politics of Freedom: An Analysis of the Modern Democratic State*. Seattle, WA: University of Washington Press.

Cochran, Clark E. 1974. "Political Science and 'The Public Interest'" in *The Journal of Politics*, Vol. 36.

Lippman, Walter. 1955. *Essays in Public Philosophy*. Boston: Little, Brown.

Mill, John Stuart. 1987. "Utilitarianism" in Ryan, Alan (ed.), *Utilitarianism and Other Essays: J.S. Mill and Jeremy Bentham*. New York: Penguin Books.

Murphy, Kevin. 1998. "Accountability to the Citizen" in Boyle, Richard and McNamara, Tony (eds.), *In Governance and Accountability: Power and Responsibility in The Public Service*. Dublin: Colourbooks.

Nase, Jonathan P. 1993. "The revenue agent role of state courts: implications for administration and adjudication" in *Judicature*, Vol. 76, Number 4.

National Center for State Courts and the Bureau of Justice Assistance. 1997. *Trial Court Performance Standards*.

North, Douglass C. 1990. *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press.

O'Connell, Kathie M. 2000. *Los Angeles County, Red Light Photo Enforcement Pilot Project.* Written for the Institute for Court Management's Court Executive Development Program, National Center for State Courts.

Osborne, David and Gaebler, Ted. 1992. *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector*. Reading, MA: Addison-Wesley.

Schattschneider, E.E. 1975. *The Semisovereign People: A Realist's View of Democracy in America*. Fort Worth, TX: Harcourt, Brace, Jovanovich College Publishers.

Schneider, Herbert W. 1956. *Three Dimensions of Public Morality*. Bloomington: Indiana University Press.

Schubert, Jr. Glendon A. 1960. *The Public Interest*. Glencoe, IL: The Free Press.

Tobin, Robert W. 1996. *Trial Court Budgeting*. Williamsburg, VA: National Center for State Courts.

U.S. Supreme Court. 1907. *Chambers v. Baltimore and Ohio Railroad Co*., 207 U.S. 142, 148.

_____. 1927. *Tumey v. Ohio*, 273 U.S. 510.

_____. 1972. *Ward v. Monroeville*, 409 U.S. 57.

Wedgwood, Ruth. 1993. *Is There a Constitutional Claim to Minimum Funding in the Courts?* Written for the 1993 Forum for State Court Judges sponsored by The Roscoe Pound Foundation and Yale Law School.

Wolfson, Barbara. 1994. *Justice Denied: Underfunding of the Courts*, a report of The Roscoe Pound Foundation.

Zimmerman, Ron. 1990. "Dollars and Sentences: The Fiscal Seduction of the Courts" in *State Court Journal*, Fall Edition.